

VZCZCXRO7524  
PP RUEHDBU RUEHFL RUEHLA RUEHMRE RUEHROV RUEHSR  
DE RUEHKB #1704/01 3280733  
ZNY CCCCC ZZH  
P 240733Z NOV 06  
FM AMEMBASSY BAKU  
TO RUEHC/SECSTATE WASHDC PRIORITY 1771  
INFO RUCNCIS/CIS COLLECTIVE PRIORITY  
RUCNOSC/ORGANIZATION FOR SECURITY COOPERATION IN EUROPE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 04 BAKU 001704

SIPDIS

SIPDIS

E.O. 12958: DECL: 11/24/2016  
TAGS: [PGOV](#) [PREL](#) [PHUM](#) [KDEM](#) [AJ](#)  
SUBJECT: UPDATE ON FREEDOM OF ASSEMBLY IN AZERBAIJAN

REF: A. BAKU 1572

- [B](#). BAKU 1606
- [C](#). BAKU 1579
- [D](#). BAKU 1700

Classified By: AMBASSADOR ANNE E. DERSE PER 1.4(B,D)

[1](#)1. (C) SUMMARY: In the year that has passed since the November 2005 Parliamentary Elections, the GOAJ has placed severe restrictions on the right to freedom of assembly, which is recognized in Azerbaijani law. Since the violent break-up of a peaceful, sanctioned opposition rally on November 26, 2005 the GOAJ has not approved a single application for a protest or rally with a domestic political focus, frequently denying the applications with no valid legal grounds, and detaining opposition activists who attempt to hold unauthorized rallies. However, the GOAJ at the same time has turned a blind eye to unauthorized rallies with a focus on external issues or religious issues, allowing illegal protests on issues ranging from the Prophet Mohammed caricatures to the draft French law on the "Armenian genocide."

[1](#)2. (C) SUMMARY CONTINUED: Both the OSCE and the Council of Europe have urged the GOAJ to change its existing legislation on freedom of assembly, and the President's Advisor on Social-Political Issues announced that a task force will study these issues. The GOAJ is currently in dialogue with the Council of Europe regarding potential changes to this legislation. While legal changes will help, political will is required to change the current restrictions on freedom of assembly. Allowing Azerbaijan's citizens to exercise their constitutional right to freedom of assembly is a critical component in Azerbaijan's democratic process and is essential for this country's long-term stability. END SUMMARY

#### LEGAL FRAMEWORK

-----

[1](#)3. (C) Article 49 of the Azerbaijani Constitution stipulates that citizens have the right "upon notification of corresponding government bodies in advance, to peaceful unarmed gatherings, meetings, demonstrations, rallies, street processions, and pickets with others." Azerbaijani law upholds and more clearly defines this right. In practice, however, the GOAJ has varied between severely restricting this right and prohibiting it altogether. In the aftermath of protests following the October 2003 Presidential Elections until a Presidential decree was issued on May 11, 2005, the GOAJ did not allow any public assembly. Due largely to intense pressure by the international community to create the environment necessary for free and fair parliamentary elections, President Aliyev restored the right to freedom of assembly in a decree on May 11, 2005. However, most observers regarded the decree as a partial restoration, as the GOAJ limited the areas authorized for public assembly to a handful of locations outside the city center and required protesters

to obtain advance permission from the Baku Mayor's Office. The opposition Azadliq bloc challenged this policy by holding a series of small, unsanctioned rallies in the city center that resulted in clashes with police. The period of partial restoration came to a halt on November 26, 2006, when the Azerbaijani police used force to disperse a peaceful, sanctioned opposition rally of approximately 7,000 participants.

14. (C) The Baku Mayor's Office has not approved a single protest or rally application since the November 26, 2005 rally. The Popular Front Party and Musavat - both opposition parties - reported that they have followed the appropriate channels to apply to hold rallies, and that each instance was denied for reasons such as "The President's Office is already looking into this matter, so there is no need to hold a rally on this topic." In the past two months, the opposition Azerbaijan National Independence Party (ANIP) and the independent Yox youth movement have received denials more ambiguously worded, in which the Mayor's Office stated only "It is not advisable to hold such a rally." In addition to these instances, virtually every week the press carries reports of parties planning protests and rallies, for which the GOAJ reportedly denies authorization.

#### PROTESTS ON INTERNAL POLITICS FACE OUTRIGHT DENIALS

-----

15. (C) GOAJ restrictions on freedom of assembly have attracted more attention over the last two months, beginning when the opposition Musavat party sought permission to hold a September 23 protest on human rights, freedom of assembly, and the "criminalization of society." In a response letter sent the day before the planned rally, the Mayor's Office denied the application once more on the basis of political

BAKU 00001704 002 OF 004

content, stating that the GOAJ is already engaged on these issues, "both in the domestic and international arenas." Musavat did not attempt to hold an unsanctioned rally, and is appealing the Mayor's decision through the proper legal channels. The pro-GOAJ Muasir (Modern) Musavat party also applied to hold a rally on an unspecified topic at the same time and location as the Musavat protest, and although Muasir Musavat never announced what the Mayor's Office response had been, the party did not follow through with its protest.

16. (C) After the Musavat protest was denied, the Yox youth movement - an independent movement that is not linked to any party, although it is a member of the mostly opposition Youth Coalition - applied to hold a rally to protest the media freedom situation, corruption, and abuse of power in Azerbaijan. The Mayor's Office denied the protest, but Yox planned to move forward anyhow, although Yox's leader, Ali Ismayilov, said that the movement's members would behave strictly in a peaceful manner. However, during the evening and early morning prior to the planned protest, Ismayilov was detained twice, interrogated and threatened, and released one hour after the start of the would-be protest (see ref a). Since Ismayilov had time to contact his brother after the initial detention, members of the movement had been warned not to gather at the designated spot unless Ismayilov was released before the protest's scheduled start. As a result, the protest did not happen.

17. (C) Opposition Azadliq bloc has attempted to carry out four unsanctioned protests in reaction to the GOAJ State Committee for Property's decision to evict the opposition newspaper Azadliq from its building (see ref b). The first protest, held on November 2 in front of a subway station, drew approximately 50 participants and resulted in the detention of 17. The second protest, held on November 6 in front of the State Committee for Property building, drew approximately 30 protesters. The Institute for Reporter Freedom and Safety (IRFS) reported that 20 participants were detained and forced into buses driven around for an hour

before being released. IRFS also reported that one protester, human rights activist Emin Huseynov, was beaten and "thrown onto the pavement" by unidentified men in civilian clothes. The third protest, held on November 15 in front of the State Committee for Property building, drew about 30 protesters. Huseynov said that although to his knowledge no one was detained, police were rough with several journalists, who were wearing vests clearly indicating that they were press. The fourth protest was held on November 16 in front of a subway station, and drew approximately 80 participants. Poloff witnessed five detentions, although there may have been more, and rough - but not violent - police treatment of protesters. According to press reports, two of these detainees received three-day sentences for unclear reasons.

#### EXTERNAL ISSUES VERSUS INTERNAL POLITICS

-----

18. (C) While the GOAJ has not allowed any protests or rallies since November 26, 2005, it has taken a decidedly different approach to demonstrations focused on external politics rather than internal policies. Earlier this year, although not officially approved, the GOAJ turned a blind eye to protests over the publication of the Prophet Mohammed caricature, as well as protests over a caricature printed in an Iranian newspaper negatively portraying ethnic Azerbaijanis. Over the past few months, opposition party ANIP has conducted a number of small protests (approximately 5-15 participants) in front of the Iranian Embassy regarding the treatment of ethnic Azerbaijanis living in Iran. Secretary General of ANIP Fuad Mukhtarov told Poloff that the police generally allow protesters to voice their concerns before detaining them, after which they are released a few hours later.

19. (C) The French National Assembly's October 12 decision to criminalize denial of the Armenian "genocide" (see ref c) sparked a heated reaction from the Azerbaijani public, including a string of small protests in front of the French Embassy. The French DCM estimated that for about a week following the publication of the decision, every day there were one to two protests staged, with approximately 10-12 participants in each. He said that these protests were clearly orchestrated in advance; noting that the local police posted in front of the Embassy alerted Embassy drivers before each protest occurred. The groups responsible for these protests - the Karabakh Liberal Organization (KLO), the Gray Wolf party, and the veterans organization "Our Azerbaijan" - did not request permission from the Baku Mayor's Office, as stipulated by Azerbaijani law, and therefore these protests were not officially sanctioned. However, according to the French DCM, the police did not detain any of the protesters, with the exception of one group of six KLO protesters who

BAKU 00001704 003 OF 004

were detained after throwing eggs at the Embassy.

#### THE CASE OF NARDARAN

-----

10. (C) In Nardaran, a village located 25 kilometers north of Baku that is known for its religious conservatism and independent streak, freedom of assembly is handled quite differently than in the rest of the country. Residents of Nardaran have staged small, illegal protests throughout the year on issues ranging from the Prophet Mohammed caricature to the Israeli-Hizballah conflict. More recently, in reaction to an article in a little-known Azerbaijani newspaper that the religious community believes "insulted the Prophet Mohammed," a November 10 protest was held in Nardaran (see ref d). The protest drew approximately 100 participants, who called for the author's death by beheading. According to human rights activist Novella Jafarova, the police did not interfere with the protest and did not detain any protesters.

#### DESIGNATED ASSEMBLY LOCATIONS

-----  
¶11. (C) On October 29, the Baku Mayor's Office released a list of designated locations for demonstrations, still requiring five days notice of events, including specifying the time, location, and the number of participants. The list includes seven locations, none of which is close to the desired high-profile locations for assembly in Baku. Driving to any of these locations would take between 30 minutes and an hour. The publication of these locations drew immediate reaction from the opposition parties. Popular Front Party Deputy Chair Fuad Mustafayev told the press that these locations would suffice for local gatherings, but not for protests on events that pertained to the entire country. Musavat Deputy Chair Arif Hajili said that locations should have been designated nationwide, not just in the capital. Azerbaijan Democratic Party Deputy Chair Taliyat Aliyev concluded that the Mayor's Office must have designated these locations under pressure from the international community, but that the real issue is the need to lift limitations on the right to freedom of assembly.

#### CHANGES TO THE LAW?

-----

¶12. (C) The GOAJ is currently in dialogue with the Council of Europe (CoE) Venice Commission regarding possible changes to Azerbaijan's law on freedom of assembly, in accordance with Azerbaijan's legal commitment with the CoE to bring the law into conformity with European standards. In addition, Azerbaijan has a commitment with the OSCE to ensure that any restrictions on the right to freedom of assembly are consistent with international standards. According to a July 2006 OSCE report, there are three major problems with Azerbaijan's current law. First, international standards hold that laws should presume in favor of holding assemblies. Among other problems, the legal requirement to request permission from the Baku Mayor's Office to hold an assembly does not mesh with international standards of restricting the exercise of freedom of assembly only for legitimate national security or public safety reasons. The second discrepancy lies with the state's duty to protect citizens in exercising their right to freely assemble, both through police ensuring security - in which dispersal should be a last resort - and in facilitating an assembly. Azerbaijani law does not call for the state or the police to actively protect protesters. Finally, regarding the principle of judicial review of decisions that restrict or prohibit assemblies, the current law outlines an "insufficient timeline" and "fails to adequately address liability." The OSCE presented these concerns to the GOAJ in a September 19 closed-door discussion, after which the President's Advisor on Social-Political Issues Ali Hasanov told the press that a joint task force would be established.

#### COMMENT

-----

¶13. (C) GOAJ restrictions on freedom of assembly have gained increasing attention over recent weeks, as journalists and political parties have unsuccessfully sought permission to protest media restrictions (septel). In our view, legal changes - while important - will not solve the problem on their own. Political will is required. The ability to exercise the right to freedom of assembly is a critical component of Azerbaijan's democratic process. The GOAJ clearly recognizes the political value in allowing some protests to go forward, as it has turned a blind eye to protests on foreign policy issues that also serve as a useful valve for potentially hot-button issues. The GOAJ has the

BAKU 00001704 004 OF 004

political room to allow domestically focused protests with little risk to its own standing or stability. In the long-run, free exercise of citizens' right to assemble

peacefully will help the GOAJ better navigate the stresses brought about by rapid growth. It is in the GOAJ's own interest to resolve this problem now. We will stress this point at all levels here and it should be reinforced in contacts with officials in Washington.

DERSE